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ABSTRACT

The purpose of this paper is to collect and analyze data related to the needs of the legal profession and the capacity of law schools to meet these needs in the southern states. The law schools in this southern region are educating more law students than at any time in history. But the need for legal services in the region and the large number of qualified people desiring to study law suggest two unmet needs in the south. Scarce facilities to study law will be better used by increasing part-time and summer legal courses. The sections of this document cover the supply of lawyers in the south, the demand of lawyers in the south, the law school resources of the region, changes in the profession, and conclusions. The appendix contains a technical note and statistical tables concerning the demand for lawyers. (Author/PG)

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Meeting The Needs for Legal Education in the South

A. Kenneth Pye

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Foreword

This report is an update of one of a series of papers, commissioned by the Southern Regional Education Board in 1972-73, dealing with manpower and education in various professional fields.

The series was conceived as one means of helping SREB and others to pursue educational planning in a clearer context of statewide, regionwide, and nationwide needs for specialized manpower. The authors were selected for their broad knowledge of their fields and related educational programs. Each author was asked to consider such factors as present and future needs for manpower, trends which will affect manpower needs and demands, present capability of higher education to meet manpower needs (with special attention to the South), major trends in education that will affect future manpower supply, and recommendations for state and regional planning.

In 1974, with partial support from the Exxon Education Foundation, the Board began a concerted program of activities in manpower and education. In addition to development of comprehensive projections on supply and demand of college-level manpower, the 1972-73 series of special studies has been reviewed, revised, and expanded. Reports on additional fields are in preparation; some of the original reports are being rewritten and some, such as this study of legal education by Dean A. Kenneth Pye, of the Duke University School of Law, are being updated.

In making these papers available to the educational, governmental and business communities, SREB endeavors to assist in facilitating program decisions that will be soundly based, and to provide career guidance information which can assist students to choose a vocation that makes sense in a world of changing economic opportunities.

Winfred L. Godwin
President

Introduction

The purpose of this paper is to collect and analyze available data relating to the needs of the legal profession and the capability of law schools to meet these needs in the SREB region.

There are obvious problems involved in any attempt to deal with such a broad subject. Up to date statistics are rarely available and are frequently inaccurate or difficult to compare.[1]

Projections of the demand for lawyers involve even less reliable statistics. Little is known concerning how many persons utilize legal services, the extent of the unmet need, and how many persons not now using lawyers would choose to utilize legal services if they were available. There are neither statistics nor criteria to justify reliable estimates concerning how much of the unmet need is the product of inability to afford legal services, the location of lawyers, or traditional attitudes of consumers and providers of legal services.

Necessarily, any predictions of future trends will be unreliable. The data contained in this paper should be utilized with a substantial allowance for error. It is intended to provide something more than gross approximations and something less than the exactness expected in social science research.

Even if the demand for and supply of legal services could be predicted with specificity, there are forces at work within the legal profession which would make specific projections extremely hazardous. Some of these will be discussed in this paper. Specifically, the demand for lawyers may decrease by the advent of no fault automobile insurance, and, to a lesser extent, no fault divorce; the expanded use of insurance companies in title transfers; and increased utilization of paraprofessionals. On the other hand, the demand may increase because of major changes in criminal law; the constitutional right to counsel in all criminal cases where an active sentence may be imposed; the increasing social, economic and technological complexity of modern life; "consumerism"; the ecology revolution; procedural changes making counsel more available, and removing cost barriers to litigation, and the expanding use of class actions. Whether the results will balance is problematical.

The questions of whether the legal profession is likely to be overcrowded in the foreseeable future and, if so, the consequences for the public and the

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[1] For example, determination of the number of students in law schools involves problems such as whether to simply count heads, reduce to full-time equivalents, include or exclude part-time students, include or exclude unapproved schools. Frequently, statistics from different sources within the same organization disagree. Data on schools not approved by the American Bar Association is woefully incomplete. Furthermore, the number of graduates of the law schools of any state does not provide an accurate indication of the number of persons joining the bar of that state; many students studying in the state may migrate, and students studying elsewhere may enter the state practice. The percentage of nonresident students admitted to the bar differs widely among the states. The number of persons actively engaged in the practice of law and a description of whether they are engaged in business, private practice, or government involves double counting and omissions.

The author expresses his appreciation to Professor Millard H. Ruud of the University of Texas for his assistance in providing access to information not otherwise available. The author accepts full responsibility for the conclusions.

bar, have caused substantial concern with the American Bar Association during the last 18 months. In February 1972, the Board of Governors of the American Bar Association established a Task Force on Professional Utilization and directed it to undertake a study and submit a report to the House of Delegates at the August 1972 meeting of the Association. The Task Force unanimously reached the following conclusions:

1. There is no conclusive evidence to indicate that there are now or likely to be in the foreseeable future more legally trained men and women than can be satisfactorily and productively employed.

2. The existence of a large pool of well-qualified, legally trained individuals constitutes a major opportunity and should be viewed as a significant national resource.

3. The organized bar shares the responsibility for finding ways to utilize this resource.

4. No limitation or restriction ought to be placed on the number of qualified individuals entering the legal profession by arbitrarily restricting the number of places in law schools or unnecessarily raising bar admission standards.

5. While the expansion of existing law school facilities and the creation of new facilities should be undertaken with caution so as not to dilute the quality of educational resources, if the demand for legal education continues at present or higher levels, facilities should be provided for all qualified individuals seeking to study law.

6. The organized bar and law schools should increase their efforts to provide legal education opportunities to members of minority groups, and law schools should take precautions to assure that the great competition for admission to law school does not result in reducing opportunities for members of such groups.

7. The American Bar Association should encourage and assist the development of lawyer placement activities among state and local bar associations and law schools.

8. The American Bar Association as well as state and local bar associations and law schools should inform the public that there may not be sufficient positions in the near term in some traditional fields of legal practice or in some geographic areas for all those who may seek such positions and further investigate and publicize the developing areas in traditional practice and otherwise which would offer new opportunities.

No useful purpose would be served by summarizing the Task Force Report. The purpose of this paper is to examine the special conditions which exist in the SREB region and the wisdom of the A.B.A. conclusions as applied to these conditions.

The Supply of Lawyers in the Region

It is clear that the number of students desiring to study law has increased at a rapid rate. During the early part of the decade, there were a number of schools that did not require that the Law Schools Admission Test (LSAT) be undertaken preparatory to application to law school. Hence, comparisons with early years of the decade may be misleading. By 1969 almost all schools required the test and 50,050 students undertook it. By 1970 volume of candidates had increased to 74,000. It has steadily risen each year since 1970, and exceeded 121,000 in 1973.

The law schools of the United States have expanded substantially during recent years. Indeed, enrollment in law schools has more than doubled in the decade, with two thirds of the increase occurring since 1969 (See Figure 1 and Appendix Table B). The current rate of growth is not as great as it was at the peak of law school expansion, dropping in 1973 to a 4.4 percent yearly increase from the average 14.2 percent yearly increase during the previous three years.

The impact of this enrollment upon new admissions to the bar is just beginning to be experienced because of the three year period between admissions to law schools and admissions to the bar. But even before the impact of the new wave of enrollment increases, admissions to the bar had increased substantially. Prior to 1965, the profession had never absorbed as many as 14,000 new lawyers in a single year. The number of new admissions exceeded 12,000 in only four years between 1948 and 1965. Beginning in 1966 there was an upward trend reaching a high of 31,000 by 1973. It is anticipated that the number will continue to rise, reflecting the continuing growth in first year enrollments.

The same basic trends may be seen in the Southern region (See Table 1). The number of students from the region taking the LSAT has doubled since the 1966-68 period, but the percentage of increase has lagged slightly behind other regions. (Table 2).

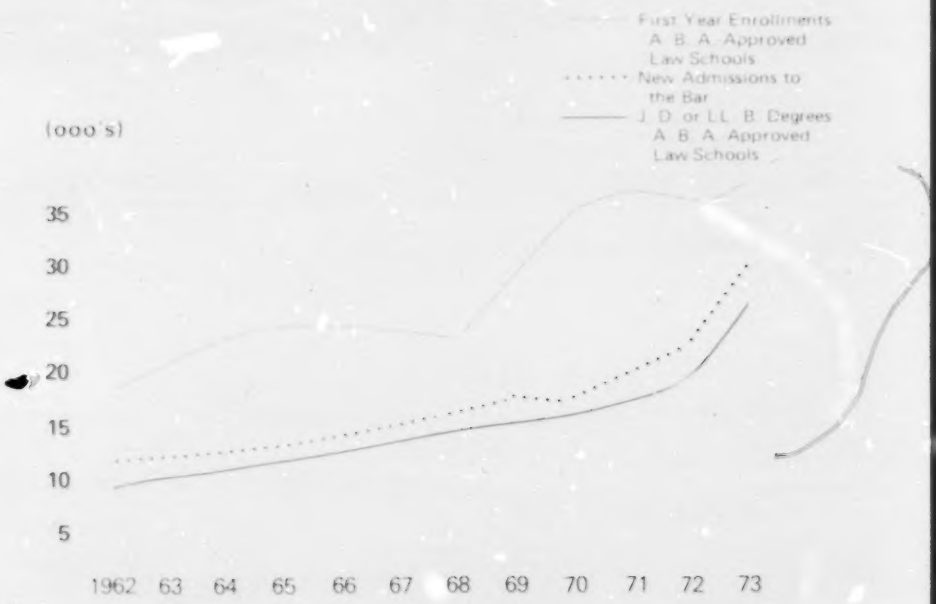
First year enrollments in regional law schools have also more than doubled in the past decade, rising more rapidly than for the nation as a whole. Although 1972 enrollments reflected the same dip that was seen nationally, by 1973 enrollments were again rising in the nation. This increase in the number of J.D. and LL.B. degrees granted in the region has also outpaced the nation, increasing 227 percent since 1961, as compared to 194 percent for the U.S.

Law school enrollments and graduations have shown marked increases in each state of the region (See Appendix Table C for details by states). All states except Georgia have doubled the number of J.D. or LL.B. degrees granted since 1961, and several states have increased their law graduates by more than 400 percent.

The rise in law school enrollments in the region is reflected in admissions to the bar. As noted in Table 3, bar admissions in the 14 Southern states in

Figure 1

First Year Enrollments,
Law Degrees, and Admissions to the Bar,
U.S., 1962-1973



1973 totaled 8,472, more than double the 1960 total. These bar admissions do not yet fully reflect the recent expansion of the region in first-year enrollments, and therefore may be expected to show further annual increases.

Table 1

Enrollment and Degrees in A.B.A.-Approved Schools,
1961-1973, Southern Region

	First Year Students Enrolled	Total Students Enrolled	J.D. & LL.B. Degrees Awarded
Fall 1961	4,112	9,794	2,211
Fall 1970	9,374	19,802	4,066
Fall 1971	10,194	23,337	4,266
Fall 1972	9,263	25,017	5,525
Fall 1973	9,640	25,704	7,224

Source: Section of Legal Education and Admissions to the Bar, A.B.A., *Review of Legal Education, 1960, 1965, 1970, 1971, 1972, & 1973.*

Table 2

LSAT State of Residence Distributions

State	1966-68	1968-70	1970-72	1972-74*
Alabama	891	1,120	1,617	3,086
Arkansas	450	643	912	1,709
Florida	2,648	3,732	5,854	11,958
Georgia	1,272	1,624	2,292	4,884
Kentucky	890	1,335	1,899	3,628
Louisiana	1,551	1,903	2,374	4,755
Maryland	1,775	2,425	4,213	8,449
Mississippi	554	730	963	1,902
North Carolina	1,273	1,792	2,685	5,622
South Carolina	709	857	1,369	2,879
Tennessee	1,063	1,284	2,164	4,132
Texas	3,884	5,304	7,582	13,860
Virginia	1,860	2,620	3,963	9,047
West Virginia	372	565	854	1,576
Total SREB Region	19,197	25,934	38,741	77,487
Total U.S.	84,542	119,491	185,836	376,984
Regional Percent of TOTAL U.S.	22.7	21.7	20.8	20.6

*The time period covered by these statistics is now three years, and is not available by single years; the periods are therefore not strictly comparable.

Source: *Educational Testing Service, Law School Admission Test Statistical Summary 1960-1968; 1962-1970; 1964-1972*

Opinions differ about whether the number of applicants for law school will remain relatively constant for the foreseeable future. Some expect a continuing increase in the number of students. Others, including the author, expect that the number of applicants will level off at levels near those obtained in recent years. The size of existing law schools will remain at about 1972 levels, but the establishment of new schools may increase the totals. First-year students, total enrollment, and students graduated, will be considerably higher than the period before 1970. The result will be a substantial increase in admissions to the bar beyond current levels.

There will continue to be a substantial number of applicants who, prior to 1970, would have been regarded as qualified but who will be unable to gain admittance to the law schools of the region. The number of qualified applicants who could be educated if spaces were available is unclear. Professor Walter B. Raushenbush estimates that in 1971-72, there were between 15,000 and 25,000 reasonably well qualified applicants who were unable to gain admittance to any school. He argues:

Table 3

Admissions to the Bar, by States
1950, 1960, 1970, 1973

	1950	1960	1970	1973
Alabama	204	84	128	245
Arkansas	104	47	112	183
Florida	531	452	871	1,721
Georgia	537	151	449	797
Kentucky	209	86	180	326
Louisiana	241	180	363	480
Maryland	261	[illegible]1	436	694
Mississippi	139	76	166	287
North Carolina	176	140	206	437
South Carolina	163	65	131	261
Tennessee	290	144	214	408
Texas	738	563	1,048	1,856
Virginia	303	287	396	657
West Virginia	98	52	87	120
Regional Total	3,994	2,698	4,787	8,472
U.S. Total	13,641	10,505	17,922	30,707

Source: National Conference of Bar Examiners, *The Bar Examiner*, Vol. 20, 30, 40, 43.

> I am concerned, therefore, that there is a very substantial unmet demand for legal education among well-qualified people. I believe it to involve annually at least half as many applicants as do find a place; to put it another way, the law schools are meeting less than two-thirds, though probably more than half, of the demand for legal education by those well qualified.[2]

Mr. Peter A. Winograd has pointed out that the numbers may be misleading. He estimates that of the 119,000 who took the LSAT in 1971-72, the total number of persons seeking admission to law schools did not exceed 85,000. A substantial number of those who are accepted do not enroll. He estimates that 75 percent of applicants who combined a minimum 3.0 G.P.A. and a 550 LSAT were accepted to at least one law school, and that several thousand with credentials which were weaker on one or both measures also received acceptances. He concludes that the severity of the problem has been greatly overestimated.[3]

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[2]W. B. Raushenbush, *The Unmet Demand for Legal Education: How Shall the Law Schools and the Bar Respond?*, 68 THE BRIEF, 161, 164. See also J.G. Frierson, *And C Students Make Money*, 59 A.B.A. Journal 61 (1973); D.G. Stephenson, Jr., *Why Law Schools Shouldn't Play the Numbers*, 59 A.B.A.J. 495 (1973).

[3]P.A. Winograd, *Law School Admissions: A Different View*, A.B.A.J. (1973).

Obviously, part of the issue depends upon the definition of "qualified." The author suspects that the answer lies between the positions of Messrs. Raushenbush and Winograd — probably at least 20 percent of students who would have been deemed qualified in 1969 now are being denied admission.

Demand for Lawyers

In one sense, society's need for lawyers is immaterial to the issue of whether more lawyers should be educated. Those who regard the study of law as a humanistic discipline will find value in educating all who are qualified without regard to the vocation that they will ultimately pursue. The vast majority of students go to law school because they desire to practice law, or because they wish to engage in related activities in business or government; however, relatively few people go to law school for the purpose of broadening their perspective on life or as a general backgrou

Table 4

Lawyers, Population and Population Lawyer Ratio, United States and South, 1950, 1970

	1950			1970		
	Lawyers	Population (000's)	Ratio	Lawyers	Population (000's)	Ratio
United States	221,605	154,360	696	355,242	203,185	572
SREB States	49,903	45,177	905	82,872	58,933	711
South as a Percent of U.S.	22.5	29.3		23.3	29.0	
Alabama	2,221	3,090	1,391	3,537	3,444	974
Arkansas	1,790	1,845	1,085	2,107	1,923	913
Florida	4,719	3,098	656	11,510	6,789	590
Georgia	4,109	3,510	854	6,140	4,590	748
Kentucky	3,239	2,948	910	3,875	3,219	831
Louisiana	3,051	2,762	905	5,502	3,643	662
Maryland	3,791	2,539	670	7,447	3,922	527
Mississippi	1,674	2,156	1,288	2,766	2,217	802
North Carolina	3,065	4,163	1,358	4,638	5,082	1,095
South Carolina	1,558	2,174	1,395	2,379	2,591	1,089
Tennessee	3,558	3,247	913	5,184	3,924	757
Texas	11,656	8,180	702	19,074	11,197	587
Virginia	3,826	3,507	917	6,893	4,648	674
West Virginia	1,736	1,958	1,128	1,820	1,744	958

Source: American Bar Foundation, *The 1971 Lawyer Statistical Report* (Edited by B.H. Sikes, C.N. Carson, P. Gerang 1972)

for other ventures. Hence the number of jobs available for law school graduates should properly be considered in determining whether the existing facilities should be expanded or new facilities should be constructed to meet the demand of persons who desire to study law.

In 1970, the last year for which detailed data is available, there were approximately 335,000 lawyers[4] in America for a total population of slightly over 203,000,000, a ratio of one lawyer for every 572 inhabitants, a change from one lawyer to every 696 inhabitants in 1950 (Table 4).

Lawyer-population ratios in the region reflect a substantially different picture. In only one Southern state, Maryland, are there more lawyers for the population served than the national ratio. In only two other states, Florida, and Texas, is the lawyer-population ratio even roughly equivalent to the national average. North Carolina, South Carolina, Alabama, West Virginia, and Arkansas have fewer lawyers for the size of their populations than any other states.

Yet the declines in population-lawyer ratio shown in Table 4 indicate that in all of the states of the region, the number of lawyers increased more rapidly than did the population during the period of 1950-70. This trend is continuing. As may be seen in Table 5, the rankings of 10 Southern states are much higher in terms of the number of lawyers in the state, than by

Table 5

States Ranked by Population and Number of Lawyers 1970

	By Population	By No. of Lawyers
Alabama	21	28
Arkansas	32	35
Florida	9	11
Georgia	15	16
Kentucky	23	27
Louisiana	20	20
Maryland	18	13
Mississippi	29	32
North Carolina	12	25
South Carolina	26	34
Tennessee	17	21
Texas	4	4
Virginia	14	14
West Virginia	34	36

Source: American Bar Foundation: *The 1971 Lawyer Statistical Report* (Edited by B.H. Sikes, C.N. Carson, p. Gorall (1972).

[4] The estimate for 1973 is 380,000.

population. Only Louisiana, Maryland, Texas and Virginia rank as high or higher in population as they do in number of lawyers.

It seems clear that if judged from the standpoint of lawyer-population ratio, most of the states of the region can experience substantial growth in their bars before reaching the national average. At the same time it is clear that the number of lawyers is increasing at a much more rapid rate than is population.

Lawyer-population rankings may provide some insight into the relative need for lawyers by private persons. They do not reflect either the financial ability of ordinary citizens to afford lawyers nor do they indicate whether lawyers are geographically available to serve those needing and able to afford them.

It is clear that per capita income and average weekly earnings in the region are, in general, much lower than the rest of the nation (Table 6). With the exception of Maryland, the states of the region are below the national median in per capita income, and Mississippi, Arkansas, Alabama, South Carolina, West Virginia, Louisiana, Kentucky and Tennessee all rank in the lowest fifth in the nation.

Table 6

Average Weekly Earnings and Per Capita Income

	Average Weekly Earnings (Production Workers, Mfg.) and Rank (1973)		Per Capita Income and Rank (1973)	
United States	$165.60		$5041	
Alabama	140.70	(40)	3871	(47)
Arkansas	120.10	(50)	3952	(44)
Florida	142.55	(39)	4923	(23)
Georgia	132.61	(44)	4395	(35)
Kentucky	158.67*	(29)	4033	(42)
Louisiana	164.77	(24)	3931	(45)
Maryland	170.91	(18)	5489	(12)
Mississippi	118.89	(51)	3556	(49)
North Carolina	120.20	(49)	4282	(37)
South Carolina	122.72	(47)	3882	(46)
Tennessee	133.65	(43)	4095	(38)
Texas	152.93	(34)	4571	(33)
Virginia	135.60	(41)	4886	(24)
West Virginia	165.60	(23)	3961	(43)

*Estimated by SREB

Source: U.S. Department of Commerce, *Statistical Abstract of United States, 1974*, 359, and *Survey of Current Business*, August, 1974.

Only Louisiana, Maryland and West Virginia rank in the top one-half in average weekly earnings. Mississippi, North Carolina, Arkansas, South Carolina, Georgia, Virginia and Tennessee rank in the bottom one-fifth.

An increase in the number of lawyers by itself will not affect substantially the inability of people with low incomes to afford legal services. An increase in lawyers will not necessarily reduce fees to a level which will broaden the availability of legal services. North Carolina, with the largest population for the size of its bar in the nation, has a fee structure considerably lower than many states in which the number of lawyers serving comparable populations is much greater.

Furthermore, the population of the region is less urbanized than most other regions of the country, although the trend toward urbanization is clear (Table 7).

Table 7

Metropolitan, Urban and Rural Population
1970

	Metropolitan		Urban		Rural	
	per cent	% Change 1960-70	per cent	% Change 1960-70	per cent	% Change 1960-70
U.S.	68.6	16.6	73.5	19.2	26.5	-0.3
Ala.	52.3	6.5	58.4	12.3	41.6	-2.9
Ark.	30.9	14.3	50.0	25.6	50.0	-5.7
Fla.	68.6	37.2	80.5	49.3	19.5	2.4
Ga.	49.7	25.7	60.3	27.0	39.7	3.3
Ky.	40.0	14.1	52.3	24.4	47.7	-8.9
La.	54.8	14.0	66.1	16.8	33.9	3.2
Md.	84.3	29.7	76.6	33.3	23.4	8.5
Miss.	17.7	15.4	44.5	20.2	45.5	-9.4
N.C.	37.3	23.8	45.0	26.8	55.0	1.5
S.C.	39.3	19.4	47.0	25.6	53.0	-3.1
Tenn.	48.9	13.0	58.8	23.6	41.2	-4.9
Tex.	73.5	23.7	79.7	24.1	20.3	-4.9
Va.	61.2	27.6	63.1	33.1	36.9	-2.7
W.Va.	31.3	-5.2	39.0	-4.4	61.0	-7.4

Source: U.S. Dept. of Commerce, *Statistical Abstract of the United States*, 1972, 18

Only Florida, Maryland and Texas are more urbanized than the national average. Lawyers tend to congregate in urban areas. In part because of the relatively few large cities in the region, the percentage of the bar in communities of under 50,000 is higher than the national average in all states except Texas (Table 8). Nevertheless, every state of the region has more

than 50 percent of its bar located in urban communities with a population in excess of 50,000 except Arkansas, Kentucky, Mississippi, South Carolina, and West Virginia. Improving the lawyer-population ratio will not provide legal services in rural areas unless lawyers can be persuaded to practice in the areas in which the unmet need exists.

Lawyer-population ratios also ignore the relationship between lawyers and the business community. Businesses provide the chief support for many lawyers today, and any increase in business or governmental activity increases the need of lawyers both directly, in terms of lawyers employed by businesses or government, and in terms of lawyers who provide representation for business clients. The South has traditionally lagged behind in industrial growth. Prosperity of private practitioners is reflected by expansion of business, which requires the services of lawyers for organization, financing, and the advice necessary to meet the host of state and federal regulatory requirements. For the last two decades the greatest increases in the number of lawyers have occurred in government and in business.

In general, the percentage of lawyers in the region employed by government compares favorably with national averages, although the percentage has not increased at the same rate as the national average (Table 9). The dramatic national increase in the number of lawyers in business and education has not occurred in the region.

In addition, most private practitioners in the region, excluding the states of Florida and Texas, and the cities of Baltimore and Atlanta, tend to be engaged in relatively small firms in general practice. There is some reason to believe that national businesses operating in many states of the region do not depend upon local counsel to the same extent as they may do elsewhere where larger firms with specialists in labor law, tax law and trade regulation may be available. Although information is fragmentary, the average income of partners in law firms of the region, even including the urban practitioners in Atlanta, Baltimore, New Orleans, Texas and Florida, tend to lag substantially behind average net income elsewhere.[5]

The low incomes in the region and the rural nature of much of the region pose major problems in making legal services readily available. This problem would be of less significance if there were adequate legal services to the poor funded by the federal government or other sources. In fact, however, most states in the region receive less money from the federal government for legal services than many other areas of the country and most of the money is spent in large cities, in part because the bars of some of the Southern states were less than aggressive in seeking federal funds during the early days of the poverty program.

The result is that the money made available for legal services by the Office of Economic Opportunity is far less than would seem to be merited by either the population of the region or the percentage of population at poverty levels (Table 10). In addition, there are only a few programs providing any

[5] See R. Smith and N. S. Clifton, *Income of Lawyers*, 1962-1963, 52 A.B.A.J. 1043 (1966); *Income of Lawyers*, 1963-1964, 54 A.B.A.J. (1968); *Income of Lawyers*, 1965, 55 A.B.A.J. 562 (1969).

Table 8

Percentage Distribution of Lawyers in Region by Size of Cities
1970

Area Covered	No. Listed in Directory	Under 25,000	25,000-50,000	50,000-100,000	100,000-250,000	250,000-500,000	Over 500,000	Total
United States	324,818	20.14	8.59	9.00	11.30	11.52	39.44	99.99
Alabama	3,291	26.16	8.57	6.26	29.44	29.57	-----	100.00
Arkansas	1,969	42.15	12.54	11.07	32.23	-----	-----	99.99
Florida	10,917	19.55	12.94	19.53	12.38	28.03	7.58	100.01
Georgia	5,517	30.85	6.94	4.60	11.93	45.68	-----	100.00
Kentucky	3,625	40.14	10.54	2.70	10.51	36.11	-----	100.00
Louisiana	5,089	23.78	7.58	5.52	18.53	-----	44.59	100.00
Maryland	6,619	29.97	8.94	11.50	-----	-----	49.58	99.99
Mississippi	2,517	47.95	21.02	-----	31.03	-----	-----	100.00
North Carolina	4,367	39.87	9.18	12.30	38.65	-----	-----	100.00
South Carolina	2,236	39.71	14.04	22.59	23.66	-----	-----	100.00
Tennessee	4,770	26.33	7.78	-----	21.15	19.41	25.33	100.00
Texas	17,217	15.94	4.03	10.00	6.66	13.50	49.88	100.01
Virginia	3,401	34.53	5.66	6.39	44.29	9.14	-----	100.01
West Virginia	1,719	41.01	21.00	37.99	-----	-----	-----	100.00

Source: American Bar Foundation, *The 1971 Lawyer Statistical Report* (Edited by B.H. Sikes, C.N. Carson, P. Goral) (1972).

Table 9

Distribution of Lawyers In States of Region By Nature of Practice

Area	Year	Directory Listings	Private Practice		Government	
U.S.	1950	204,111	176,995	(86.8)	7,471	(3.6)
	1970	324,818	236,085	(72.7)	46,152	(14.3)
Alabama	1950	2,098	1,785	(85.1)	449	(21.4)
	1970	3,291	2,334	(70.9)	602	(18.3)
Arkansas	1950	1,628	1,426	(87.5)	334	(20.5)
	1970	1,969	1,437	(73.0)	343	(17.4)
Florida	1950	4,165	3,846	(92.3)	603	(14.5)
	1970	10,917	8,171	(74.8)	1,174	(10.8)
Georgia	1950	3,636	3,112	(85.6)	636	(17.5)
	1970	5,517	4,023	(72.9)	833	(15.1)
Kentucky	1950	3,009	2,592	(86.1)	567	(18.8)
	1970	3,625	2,730	(75.3)	654	(18.0)
Louisiana	1950	2,730	2,315	(84.8)	346	(12.7)
	1970	5,089	3,962	(77.8)	568	(11.2)
Maryland	1950	3,320	2,802	(84.4)	296	(8.9)
	1970	6,619	4,624	(69.8)	713	(10.8)
Mississippi	1950	1,606	1,419	(88.4)	322	(20.0)
	1970	2,517	1,854	(73.6)	386	(15.3)
North Carolina	1950	2,714	2,332	(86.0)	533	(19.6)
	1970	4,367	3,229	(73.9)	648	(14.8)
South Carolina	1950	1,399	1,239	(88.5)	263	(18.8)
	1970	2,236	1,686	(75.4)	362	(16.9)
Tennessee	1950	3,284	2,855	(86.9)	529	(16.1)
	1970	4,770	3,353	(70.3)	778	(16.3)
Texas	1950	9,997	8,202	(82.0)	1,511	(15.1)
	1970	17,217	12,392	(72.0)	2,303	(13.4)
Virginia	1950	3,515	3,039	(86.5)	746	(21.2)
	1970	6,401	4,354	(68.0)	1,091	(17.0)
West Virginia	1950	1,622	1,454	(89.7)	261	(16.1)
	1970	1,719	1,253	(72.9)	335	(19.5)

Note: Many lawyers were added twice because they practiced in more than one of the above situations. Thus the total percentages exceed 100.0 percent of the directory listings when the four categories are added together. There is no way to determine exactly where the double counting took place. However, the distortion does not appear to be serious.

Table 9 (Cont.)

Distribution of Lawyers By States of Region By Nature of Practice

Area	Year	Business & Education		Retired	
U.S.	1950	12,997	(6.3)	6,974	(3.4)
	1970	40,486	(12.4)	16,812	(5.2)
Alabama	1950	206	(9.7)	93	(4.4)
	1970	356	(10.8)	174	(5.3)
Arkansas	1950	104	(6.4)	77	(4.7)
	1970	178	(9.1)	160	(8.1)
Florida	1950	222	(5.4)	156	(3.7)
	1970	798	(7.4)	1,078	(9.9)
Georgia	1950	426	(11.8)	127	(3.5)
	1970	635	(11.5)	294	(5.3)
Kentucky	1950	332	(11.0)	131	(4.4)
	1970	360	(9.9)	221	(6.1)
Louisiana	1950	428	(15.6)	85	(3.1)
	1970	491	(9.6)	223	(4.4)
Maryland	1950	568	(17.2)	142	(4.3)
	1970	676	(10.2)	848	(12.8)
Mississippi	1950	90	(5.6)	73	(4.5)
	1970	231	(9.2)	204	(8.1)
North Carolina	1950	282	(10.4)	143	(5.3)
	1970	448	(10.3)	251	(5.7)
South Carolina	1950	98	(8.0)	72	(5.1)
	1970	209	(9.3)	126	(5.6)
Tennessee	1950	306	(7.4)	110	(3.3)
	1970	555	(11.6)	274	(3.7)
Texas	1950	1,714	(17.2)	576	(5.8)
	1970	2,479	(14.4)	1,065	(6.2)
Virginia	1950	428	(12.2)	118	(3.4)
	1970	582	(9.0)	748	(11.7)
West Virginia	1950	80	(5.0)	62	(3.8)
	1970	150	(8.7)	111	(6.5)

Source: American Bar Foundation. *The 1971 Lawyer Statistical Report* (edited by B.H. Sikes, C.N. Carson, P. Gorai) (1972). The Current Population Survey Conducted by the Bureau of the Census for the Bureau of Labor Statistics estimates that 291,000 persons were engaged in the practice of law or serving as judges in 1970. In 1972 the estimate was 320,000.

services in the rural South. The representation of indigents creates employment not only for the salaried lawyer employed but also the private practitioner retained by the party with whom the indigent is involved in controversy.

In the absence of a major increase in business activity or a strong

program of government financing for legal services to the poor, it seems apparent that a high percentage of population of the region will continue to be without legal services, even if the number of lawyers is increased substantially. Some new lawyers may practice in lawyer-short rural areas. Others may find employment in state or local government. It is doubtful where many new lawyers will obtain employment unless they replace less well educated persons in government, education or business where a law degree has not previously been regarded as a necessary qualification.

The somber outlook on demand outlined above is borne out by the current placement problems of new graduates. Although law school placement officers report that generally the upper 50 percent of the class is finding employment readily, the remainder of the class is having serious difficulty throughout the country. With the stiff competitive situation that exists in admissions to law schools, this means that increasingly well qualified graduates are finding it difficult to obtain employment.

Table 10

Distribution of OEO Funds for Legal Services Programs 1971

United States	$77,262,710
Alabama	255,579
Arkansas	159,907
Florida	2,020,792
Georgia	1,061,556
Kentucky	400,038
Louisiana	923,458
Marvland	1,744,023
Mississippi	731,248
North Carolina	353,436
South Carolina	276,760
Tennessee	500,745
Texas	2,293,952
Virginia	976,853
West Virginia	239,258
Region	$11,757,605
Cities of Miami, Atlanta, New Orleans, Baltimore, Dallas, Houston, San Antonio	$5,556,453
All other communities in the Region	$6,201,152

Source: National Legal Aid and Defender Assn., *1971 Statistics of Legal Assistance Work in the U.S. and Canada.*

Law School Resources of the Region

There are 42 law schools approved by the American Bar Association in the region.[6] Thirty three offer instruction primarily to full-time students enrolled for daytime instruction. Six operate a full-time day program and a part-time evening program. Three schools operate only evening divisions. Seven of the A.B.A. approved schools are not members of the Association of American Law Schools. There are nine schools which are not approved by the A.B.A. or members of the AALS, of which five are in Georgia.

There is no official ranking of law schools. A recent Association of American Law Schools study of part-time education did attempt to rank schools by available resources, considering enrollment, library, full-time faculty, faculty-student ratio, and average class hours as the criteria. The rankings which resulted may be helpful in determining the relative status of law schools in the region as compared to those elsewhere in the nation. The AALS study listed 43 schools as Class A schools, of which 12 were in the Southeast. Sixty schools were listed as Class B, of which 13 were in the region. Thirty-two schools were listed as Class C, of which 12 were located in the region.[7] Several schools were not included. During 1971-72, only seven schools of the region ranked in the top quartile of schools on the basis of median faculty salaries and only seven ranked in the top quartile in library size. Only five schools ranked in the top quartile in each. The size of the schools in the region varies considerably (Table 11).

Table 11

Size of Regional Schools

Enrollment	Number of Schools
100-200	2
200-300	6
300-400	2
400-500	8
500-600	6
600-700	5
700-800	5
800-900	3
900-1000	2
Over 1000	3

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[6] *Review of Legal Education*, 1972, supra, n. 1.

[7] *The AALS Study of Part-time Legal Education, Final Report*, Part One, Section II, *Proceedings*, Association of American Law Schools, 1972 Annual Meeting ("The Kelso Report"), pp. 323-335. The original data is based on 1967-1968 statistics, updated to 1971-1972.

The dramatic increase in the size of law school student bodies has directed attention away from the major changes that have been taking place in the composition of student bodies. Nationally there has been a significant increase in the number of women in law schools (Table 12).

Table 12

National Statistics -- Enrollment of Women

1962	1,575
1963	1,883
1964	2,183
1965	2,537
1966	2,678
1967	2,906
1968	3,704
1969	4,715
1970	7,031
1971	8,914
1972	12,173
1973	16,760

Source: M. H. Ruud, *That Burgeoning Law School Enrollment Slows*, 59 A.B.A.J. 150 (1973). 1973 data from Section of Legal Education, A.B.A., *Review of Legal Education*, 1973.

There have been substantial increases in the region, with 3068 women enrolled in the law schools of the region in the fall of 1973.[8] The regional enrollment lags behind the national average, however. Nationally, in 1973, the ratio of men to women in law schools was 5.3 to 1; in the SREB region the ratio was 7.4 to 1.

There has also been a significant increase in the number of minority students attending law school (Table 13).

The schools of the region have failed to keep pace with other regions in minority recruitment, despite the presence of three predominantly black schools in the region (See Table 14). In 1973 minority enrollment in all A.B.A. schools in the region was only 5.8 percent.

The problem of providing greater access to legal education for members of minority groups and women may prove to be more difficult than dealing with the numbers problem. Since most law schools are running at capacity of enrollment, increasing enrollment of minority students and women in existing institutions, will presumably, require either expansion of those institutions or the displacement of qualified white males.

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[8] *Review of Legal Education*, 1973, supra, n. 1.

Table 13
Minority Students Enrolled in A.B.A.-Approved Law Schools in the U.S., 1969-1973

	First Year Enrollment	Percent of First Year Enrollment	Total Enrollment	Percent of Total Enrollment
1973-74	3,114	8.4	7,601	7.2
1972-73	2,934	8.4	6,730	6.6
1971-72	2,567	7.1	5,568	5.9
1969-70	1,552	5.3	2,933	4.3

Source: Section of Legal Education and Admissions to the Bar, American Bar Association, *1972 Survey of Minority Group Students in Legal Education*, and *Review of Legal Education, 1973*.

Table 14

Percentage of A.B.A.-Approved Law Schools by Region with Less than 6% Minority Students, 1969-1973

	Minority Enrollment Below 6%		
	1969-70	1971-72	1972-73
North Atlantic	82%	71%	50%
Southeast	90	90	83
Great Lakes & Plains	92	80	66
West & Southwest	61	47	50

Source: Section of Legal Education and Admissions to the Bar, American Bar Association, *1972 Survey of Minority Group Students in Legal Education*.

Of the seven cities in the region with a population of over 500,000,[9] all except Jacksonville have a law school and all except Jacksonville, San Antonio, and Dallas, have evening part time education available. Of the ten cities in the region with a population between 250,000 and 500,000,[10] six have or will have law schools. In only two will there be opportunity for part-time evening study.

The inability of existing law schools to accommodate all of those desiring

[9]Baltimore, Dallas, Houston, Jacksonville, Memphis, New Orleans, San Antonio.

[10]Atlanta, Austin, Birmingham, El Paso, Fort Worth, Louisville, Miami, Nashville, Norfolk, Tampa.

to study law has resulted in increased interest in starting law schools where none now exist. During the last year the Georgia State Board of Regents approved a new law school for Atlanta, and serious consideration has been given to the establishment of law schools at a number of other locations in the region, including Fort Lauderdale, North Miami, and Boca Raton, Florida; Greenville and Charlotte, North Carolina; Wheeling, West Virginia, Fairfax, Virginia and at one of the divisions of the Texas State System at Arlington, Denton, Dallas, or College Station. Establishment of an evening division by Florida State University, the opening of a day division at Northern Kentucky State College, and the development of a Jackson Branch of the University of Mississippi have been explored. Southern Methodist University has proposed a contractual arrangement with the state of Texas to increase its enrollment in lieu of opening a new state institution.

The Texas College and University Coordinating Board determined not to establish a new state supported law school or to contract with Southern Methodist University. Most of the other proposals are still under consideration, including a new school in Little Rock, Arkansas. Nova University in Fort Lauderdale has opened a new school.

The establishment of a new school obviously is an expensive undertaking. In addition to construction costs, law schools involve sizeable budget commitments. There are only three A.B.A. approved law schools with libraries smaller than 40,000 volumes, and none with less than 30,000. The national median of median faculty salaries for 1972-73 was approximately $20,000.

In the past, legal education has been regarded as comparatively inexpensive. It is still the least expensive of the graduate and professional disciplines largely because of traditional adherence to large classes in which instruction by the Socratic method predominates. Thus, some private schools have used law school tuition income to subsidize less economical divisions of the university and some state universities have used the large size and small faculties of law schools to justify appropriations from state legislatures which were then used to subsidize more costly educational programs in other disciplines. Relatively few law schools enjoy the benefits of subsidization from university or special law school endowments.

That the cost of legal education will accelerate during the next decade is suggested by new movements toward expanded use of seminars; a greater commitment to interdisciplinary programs; new concepts of research which require the collection of and evaluation of empirical data concerning how the legal process really functions, and particularly clinical education.[11] Legal education involving these elements will not produce surpluses which can be transferred to other disciplines. Furthermore, recent developments both among students and faculty in the law schools, reflected by the formation of collective bargaining units and threats of suit, and in the accrediting association, suggest that attempts to operate new law schools

[11] See H.L. Packer and T. Ehrlich, NEW DIRECTIONS IN LEGAL EDUCATION, 63-77 (1973); *Training for the Public Professions of the Law*, 1971, Part One, Section II, *Proceedings*, Association of American Law Schools, 1971 Annual Meeting ("The Carrington Report").

at a profit may face difficult obstacles.

In some cases, the impetus towards the establishment of new law schools has been political. There are constituents who want to be lawyers with credentials which would have gained admittance to law schools a decade ago. This expresses itself in its most extreme form in a bill introduced in a Midwestern state legislature which would have authorized each member of the legislature to appoint one person annually to each state-supported law school. Usually it is reflected in proposals to open a night law school in a state capital or to open a new law school on a less prestigious campus of a state university.

Changes in the Profession

Several national trends may have a substantial impact on the need for lawyers. Despite strong opposition by the bars in many states, there seems little doubt that a substantial amount of automobile accident litigation will be removed from the courts, reducing the compensation, if not the need, for legal services. In some states title insurance is now handled by insurance companies and such companies may replace private members of the bar in more states. "No-fault" divorce may also reduce the demand for legal services.

The *Argersinger* case,[12] requiring the appointment of counsel for any indigent defendant where incarceration is a foreseeable result of conviction, may in fact reduce the demand for lawyers rather than cause an increase. Public defender programs are in their infancy in the South. The assigned counsel system, although woefully under-financed in most states, nevertheless provides some financial assistance to private practitioners. The effect of requiring the appointment of counsel in many misdemeanor cases may result in the adoption of public defender systems solely for financial reasons. Studies of the relative efficiency of public defender and assigned counsel systems generally suggest that public defender systems are considerably less expensive, at least in urban areas.[13] A small staff of salaried lawyers may replace general state support now distributed considerably more widely over participating general practitioners.

A major factor in determining the demand for legal services in the future will be the movement toward the use of "paraprofessionals." The term "paraprofessional" covers many different kinds of activities, but all of them involve the performance of tasks now performed by licensed lawyers by persons who do not have a law degree.[14] It may involve persons without a college education who perform ministerial functions of a routinized sort. It may involve college graduates performing functions involving some element of discretion, such as in the preparation of accounts in probate matters or the drafting of interrogatories and documents in tort litigation. Other "paraprofessional" activity may involve persons with formal legal education qualifying them only for certain specialized tasks, such as real estate closings or representation in certain types of administrative proceedings.

Experimentation is now being conducted both in legal services programs with persons at the lower end of the paraprofessional spectrum and by

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[12] *Argersinger v. Hamlin*, 407 U.S. 25 (1972).

[13] Note, *Analysis and Comparison of the Assigned Counsel and Public Defender Systems*, 49 N.C.L. Rev. 705 (1971).

[14] L. Brickman, *Expansion of the Lawyering Process Through A New Delivery System: The Emergence and State of Legal Paraprofessionalism*, 71 Colum. L. Rev. 1077 (1971); *Symposium on Legal Paraprofessionalism*, 24 Vand. L. Rev. 1077 (1971); W.P. Statsky, *Paraprofessionals: Expanding the Legal Service Delivery Team*, 24 J. Legal Ed. 397 (1972).

private law firms with middle range paraprofessionals. Recent studies have recommended that law schools or community colleges should engage in the training of the higher range paraprofessionals.[15] The American Bar Association is now studying the issues of accreditation and licensing.

It seems clear that greater reliance upon the use of paraprofessionals will make it possible to provide some kinds of legal services at a lower cost. Unquestionably, some tasks now performed by junior lawyers can be accomplished efficiently and more cheaply by others. It is unlikely that the legal profession will tolerate free market competition except in narrow areas, and perhaps then only under supervision, unless required to do so. It is much too early to estimate the precise impact upon the need for lawyers.

There are a number of ideas, experiments and programs that may expand the demand for lawyers' services. One of the most important is generally described as "group legal services," or providing legal services through "intermediary arrangements." One definition includes all arrangements in which legal services are rendered to individual members of an identifiable group by a lawyer or lawyers provided, secured, recommended, or otherwise selected by the group, its organization, or its officers, or some other agency having an interest in obtaining legal service for members of the group.[16] Included are arrangements for making lawyers available to members by labor unions, trade associations, automobile clubs, and membership groups formed for special purposes.

Traditionally, all intermediary relationships, other than legal aid and casualty insurance arrangements, have been prohibited as the unauthorized practice of law, and lawyer participation in them has been deemed unethical.[17] Recent Supreme Court decisions, dealing primarily with trade union activity, have held that conduct of a voluntary association in recommending or hiring lawyers for its members is activity protected by the First Amendment.[18] The bar has been prepared to go no further. Thus, the Code of Professional Responsibility, now in effect in almost all states of the region, permits only legal aid, military legal assistance, a lawyer referral service, a bar association, and "any other nonprofit organization that recommends, furnishes or pays for legal services to its members or beneficiaries, but only in those instances and to the extent that controlling constitutional interpretation at the time of the rendition of the services requires the allowance of such legal service activities,"[19] and then only if certain other conditions are met.

California has recognized that the concept of group legal services provides broad opportunities to provide legal services to clients who might

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[15] See authorities at n. 11.

[16] B. F. Christensen, LAWYERS FOR PEOPLE OF MODERATE MEANS (1970), 232.

[17] Ibid. at 256.

[18] *National Association for the Advancement of Colored People* v. *Button*, 371 U.S. 415 (1963); *Brotherhood of Railroad Trainmen* v. *Virginia, ex rel. Virginia State Bar*, 377 U.S. 1 (1964); *United Mine Workers of America* v. *Illinois State Bar Association*, 389 U.S. 217 (1967); *United Transportation Union* v. *State Bar of Michigan*, 401 U.S. 576 (1971).

[19] American Bar Association, CODE OF PROFESSIONAL RESPONSIBILITY, DR 2-103 (D) (5). This Code has replaced the 1908 Canons of Ethics. See Note, *Group Legal Services and The New Code of Professional Responsibility*, 20 Buff. L. Rev. 507 (1971).

otherwise be unable to afford them, thus increasing the business of the profession and filling an unmet need. Thus, with appropriate safeguards, it has authorized much broader arrangements. Many lawyers are concerned that such arrangements will transfer legal business now handled by general practitioners to specialists in larger firms. These concerns are reflected in ethical limitations placed on lawyer participation. It seems unlikely that most states in the region will authorize group arrangements not required by the Constitution in the foreseeable future.

Consideration is also being given to "prepaid legal services," some forms of which may also be classified as group legal services. The term "prepaid legal services" describes programs by which members of the public join together and enter into arrangements with lawyers to perform designated services in exchange for agreed compensation.[20] The potential clients may already be members of an identifiable group or may join together for the purposes of obtaining legal services. The costs of the program may be financed by the individuals, the group, or a third party, such as an employer. In some arrangements, the group member is restricted to the use of lawyers or law firms selected by the group leadership, or what is known as a "closed panel." In others, he may have a free choice of a lawyer within a community or at least of all lawyers who desire to participate. This is known as an "open panel."

A number of proposals are now in operation or under consideration. One in Shreveport, Louisiana, has been in operation for almost three years.[21] Preliminary data suggest that the mere existence of a plan does not result in full use of lawyers who are available, and there is evidence that, unlike health insurance, many middle class citizens may be unwilling to contribute even modest amounts to insure legal services when they are needed.

The trade unions constitute the most likely source of interest in the concept. Efforts are now underway to amend the Taft-Hartley Act to make legal services a permissible fringe benefit. If a governmental financed program of National Health Insurance is enacted, part of the fringe benefits now financing private medical plans may be transferred into legal services programs. Teachers' associations, cooperatives, municipal employees, and church congregations are other reasonable possibilities. Commercial insurance underwriters have just begun to design potential policy offerings.[22]

It seems likely that these plans may make legal services more available to some members of the middle class. Whether they will create any substantial need for lawyers is much more doubtful. The development of "closed plans," including salaried lawyers on union staffs, may actually reduce the demand for legal services provided by private practitioners. Many routinized transactions affecting middle class citizens, such as a simple will, an

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[20] See American Bar Association, Special Committee on Prepaid Legal Services, REVISED HANDBOOK ON PREPAID LEGAL SERVICES (1972).

[21] R. Roberts, Jr., *Shreveport Plans for Prepaid Legal Services — A Unique Experiment*, 32 La. L. Rev. 32 (1971); R.P. Hallaver, *The Shreveport Experiment in Prepaid Legal Services*, 2 THE JOURNAL OF LEGAL STUDIES 223 (1973).

[22] *Revised Handbook on Prepaid Legal Services*, supra, n. 17.

uncontested divorce, a title search, can be performed more cheaply and as efficiently by salaried lawyers aided by paraprofessionals. Undoubtedly, some of their activity will divert legal business from the private bar.

Of greater promise are the proposals for judicare, an arrangement by which private lawyers undertake to represent persons below certain income levels and receive all or part of their compensation from governmental subsidies. West Virginia, among other states, has been seeking to initiate a judicare proposal with federal funding for some time. Several other states have manifested interest, although at least one state bar president has stated vigorous opposition to the concept.[23] Judicare offers a highly practical way of making legal services available in rural areas and providing financial assistance to lawyers who would otherwise be unable to practice in communities lacking a solid basis in business and upper middle class clients. It also may provide a significant backup capability for staffed legal services programs in other areas. It probably will cost more than staffed legal services programs and will probably produce less "test case" litigation.[24] At the same time it has the potential of greatly expanding the availability of legal services. The new proposed Legal Services Corporation legislation may require that study and experimentation with the use of judicare be accomplished during the next year, but the present level of appropriations for legal services is so low that "judicare," even if expanded widely, will have no substantial effect in the short run. Most observers would agree that state and local governments could use many more lawyers effectively. Unfortunately, there is no reason to believe that they are prepared to employ any substantial additional number.

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[23] C. Watson, *Are You Ready for Judicare*, 35 Tex. B.J. 405 (1972).

[24] L.H. Goodman and J. Feuillan, *Trouble with Judicare*, 58 A.B.A.J. 476 (1972); S.J. Brakel, *Trouble with Judicare Evaluators*, 58 A.B.A.J. 704 (1972); J.F. Preloznik, *Wisconsin Judicare, An Experiment in Legal Services*, 57 A.B.A.J. 1179 (1971); O. Fendler, *Utilization of Legal Manpower to Assist the Poor*, 25 Ark. L. Rev. 203 (1971).

Conclusions

The law schools of the region are educating more law students than at any time in history. Admissions to the bar have increased dramatically and will continue to do so for at least two more years when they may stabilize at double the pre 1966 levels. The size of the bar is increasing at a much more rapid rate than the size of the population. The existing law schools have reached their capacity. Most lack the resources which they should have to do the tasks for which they are responsible. There is no reason to believe that changes in the legal profession will drastically change either the need for lawyers or the techniques available to finance their services in the foreseeable future.

These circumstances suggest that it would be unwise to expand existing law schools or begin new institutions. Only two factors suggest a different conclusion — the unmet need for legal services in the region and the large number of qualified persons who desire to study law.

The argument that more lawyers are required to meet the unmet need for legal services ignores several factors. The extent of the unmet need is unknown, and even if it is great, it is not primarily a shortage of lawyers but the distribution of legal services which causes the problem. To meet the need there must be governmentally supported programs to provide legal services to those unable to afford them; the development of techniques such as prepaid legal services, group legal services and the use of paraprofessionals to enable members of the middle class to afford legal services; the development of some technique such as judicare to make it possible for lawyers to practice in rural areas. An increase in the number of lawyers by itself will not accomplish the objective. Further increases in the size of the profession are desirable only if accomplished by, or preferably preceded by, the development of new ways to make the services of these lawyers available to those who need them. Most of the impetus towards educating more lawyers stems from the increased number of applicants to law schools. Some argue that the demand itself is reason for expansion:

> Even granting the possibility of an oversupply of lawyers, with some adverse consequences, should such considerations be controlling? I am unwilling to concede that the need for law-trained people, even if 'need' is broadly defined, is as important to a decision on expanding opportunities for legal education as is the demand for legal education. Ours has been an open profession. If 'demand for lawyers' had been the factor determining how many could receive legal education, law schools should have virtually closed during the Great Depression and should not have permitted themselves to be filled beyond fair capacity by returning veterans just after World War II. But no one then thought of conditioning opportunity for legal education on the job market for lawyers. The graduates of those periods scratched, struggled, hung out shingles, became insurance adjusters for a time, survived, and are

the leaders of the bar today, some of them apparently not realizing the irony inherent in their present wish to limit opportunities for legal education.[25]

The issue, however, is not whether entry should be arbitrarily restricted, but whether new facilities should be built and existing programs expanded. The question is one of allocation of scarce resources. In a perfect world every qualified person should be able to study in any field he desires. In a less perfect world policy makers must choose which needs must be met with the limited resources at their disposal. It is difficult to understand why the expansion of legal education is more important than public kindergartens or health care for those who cannot afford doctors or hospitals, or for many other social problems. A general expansion of legal education to meet the demand by law school applicants should be resisted, not to provide protection for lawyers from competition, but to use available resources to meet more pressing needs.

The disappointment of those desiring to study law should be recognized as a significant social cost which we must pay for not having developed a society which can provide the required education and professional opportunity for all who desire to practice a particular profession. It is not itself justification for educating more persons than can reasonably be expected to find remunerative employment in the legal profession at the expense of other competing needs. To train lawyers to fill positions which can be adequately performed by persons with bachelor's or master's degrees is a misuse of resources in a region which does not have overabundant resources.

These conclusions do not suggest that it may not be appropriate to establish law schools where there are special needs. It is somewhat surprising that today there are not opportunities for legal education in A.B.A. approved schools in six cities with a population of at least 250,000. Part-time legal education in A.B.A. approved schools is available today in only five of the 17 cities with a population of over 250,000. Part-time legal education poses formidable problems and should probably not be initiated except in conjunction with a full-time program in a university that is willing to expend the amounts necessary to insure that the student in the part-time division is receiving an education equivalent to that which he would have received as a full-time student. Some question the feasibility of part-time legal education in metropolitan areas of less than one million. Nevertheless, classroom space now unused in the evening, where adequate libraries exist, may suggest that an expansion of enrollment through the creation of an evening division is desirable if funds to provide for additional qualified full-time faculty can be found. It may be much wiser for a state to contract with an existing private institution with a strong day division than attempting to begin an evening operation in a university which is

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[25] *Op. cit.*, n. 4. The argument is somewhat reminiscent of the ancient proverb: "When one said that the numbers of lawyers would marr the occupation," he answered, "No, for always the more spaniels in the field, the more game." Camden, *Remains Concerning Britain: Wise Speeches* (quoting John Haywood) 1674).

inexperienced in providing legal education.

Some universities may find it desirable to increase their enrollments through programs of instruction that utilize now idle facilities during summer months.[26]

In some locations a new school may be desirable.

All states should be concerned with the development of programs for training paraprofessionals. Professional opportunities can be presented to many who are unqualified or cannot afford traditional legal education and legal services may be made more available to those not now having access to counsel. Decisions should be made promptly concerning whether primary responsibility for the education of legal paraprofessionals rests with the law schools, community colleges or others.

The "numbers problem" should not obscure the clear need to educate more women and minority groups in order to make the legal profession more representative. The region has a special responsibility which it has not yet met for providing access to the legal profession to qualified black persons.

This paper does not disagree with the A.B.A. Task Force's conclusion that there is no *conclusive* evidence to indicate that there are likely to be more legally trained people than can be satisfactorily and productively employed. It certainly agrees that the existence of a large pool of well qualified legally trained individuals constitutes a significant natural resource which should be utilized. Nor does it suggest that any arbitrary restrictions should be placed on law school or bar admissions. It does disagree with the conclusion that facilities should be provided for all qualified individuals seeking to study law, unless simultaneously other actions are taken to insure that their talents will be available to those who need them. Scarce resources will be better spent in making existing legal services available to more of the citizenry than by educating more lawyers without concern as to how the average citizen will benefit from an enlarged legal profession.

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[26] See D. F. Cavers, *Proposal: Legal Education in Two Calendar Years*, 49 A. B. A. J. 475 (1963).

Appendix

THE DEMAND FOR LAWYERS – A TECHNICAL NOTE

Eva C. Galambos

Dean Pye, in discussing the demand for lawyers in the region, summarizes his assessment by picturing a limited demand for lawyers in the foreseeable future. The same conclusion is apparent by applying various quantitative methods to project the demand for lawyers in the region (Table A).

The lowest projected demand for new lawyers shown in Table A assumes that for each of the Southern states the ratio of population to lawyers relative to the U.S. population to lawyers will remain constant. For the region as a whole in 1970 there were 684 persons per lawyer. In the U.S., for the same year, there were 572 persons per lawyer. The ratio is 124 percent, or 1.24 more people per lawyer in the region than in the U.S., ranging from a high of 190 percent in North Carolina to a low of 92 percent in Maryland. If the U.S. population per lawyer should decrease from 572 in 1970 to 522 in 1980[1], and assuming the Southern States reduce the population per lawyer in the same relative amount (maintaining the state to U.S. ratios they had in 1970), an increase of 16,534 lawyers will be needed from 1970 to 1980. Replacement demand created by deaths and retirements must be added to this number. The rates of lawyer retirements and deaths have been calculated by the Employment Security agencies in each state. When these rates are applied to the employed lawyers in 1970, an additional 28,640 openings are obtained for the 10-year period, or 45,174 openings for new and replacement lawyers over the decade in the region.

A second method of projecting demand for lawyers is based on the relationship of the number of lawyers in each state to employment in the finance, insurance and real estate (FIRE) employment sector. The Research Triangle Institute of North Carolina, in a study of demand for lawyers in that state, correlated the number of lawyers in each state against numerous economic and social variables, including urban population, per capita income, expenditures for police and corrections and income of lawyers[2]. The highest correlation between the number of lawyers per capita in each state was found with employment in FIRE. The correlation between these two variables (number of lawyers and FIRE employment data in each state for 1970 and 1980[3]) was used to "predict" the number of lawyers per state in the region in 1980. This method yields a total demand of 31,724 more

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[1]David H. Stuart, *The Requirements for and Availability of Lawyers in North Carolina 1970-1980*, Research Triangle Institute, Research Triangle Park, N.C., pp. 44-45.

[2]*Ibid.*, p. 35.

[3]As obtained from Joe Won Lee and William B.D. Hong, *Regional Economic Projection, 1960-85*, Report Number 73-R-1, National Planning Association, Washington, D.C.

lawyers in 1980 than were employed in 1970, or 60,363 openings for lawyers over the decade when replacement openings are also included (Column II in Table A).

It is not surprising that this second method yields a higher demand than the first approach. As the Southern region becomes more like the rest of the nation in the mix of economic activities, FIRE will expand more quickly than in the rest of the nation and this will tend to reduce the relative differential between the Southern and U.S. population per lawyer which was held constant in the first method.

The last projection of demand for lawyers is obtained from forecasts prepared by the Employment and Security agencies of each state as part of their comprehensive occupational demand projections. The states are all guided by a U.S. Department of Labor format in projecting occupational demands. First employment by industries is projected in each state. An occupational matrix has been developed, producing the number of positions per occupation per industry, including the number of lawyers in FIRE, other services, government, retail and wholesale trade, and all other industries. Summation of the demand for lawyers in each industry, according to the postulated growth per industry, yields forecasts of occupational employment or new openings. The Employment and Security projection of these openings, together with replacement needs, yields a total demand for lawyers in the region of 48,880 over the decade (Column III in Table A).

From 1970 through 1973 a total of 21,080 J.D. or LL.B. degrees were awarded in the Southern region in A.B.A. approved schools, of which 7,224 were awarded in 1973 (Table C). Since 1973 degrees do not totally reflect the rising first-year enrollments since 1970, the number of degrees to be granted from 1974 to 1980 may be expected to exceed 7,224, even if no new law schools were added. Thus another 7,400 annual degrees may be expected for the 1974-80 period, or a total of approximately 65,500 degrees for the entire decade. Since each year admissions to the bar exceed the number graduating from A.B.A. approved law schools, possibly because of graduates from non-approved law schools, the 65,500 degree projection for the decade does not overstate available potential supply.

The most optimistic projection of demand (approximately 60,350) still falls short of the supply of new lawyers by approximately 5,000, or an average of 500 per year.

Table A

Demand Projections for New Lawyers, Southern Region, 1970-1980

	I Maintaining 1970 Relative U.S. & State Population/ Lawyer Ratios	II On the Basis of Projected FIRE Employment	III Employment Security Agency Projections*
Alabama	1,558	2,915	1,600
Arkansas	1,230	2,321	1,100
Florida	9,461	10,737	9,120
Georgia	3,995	6,089	3,200
Kentucky	1,745	2,025	2,530
Louisiana	2,004	1,621	2,410
Maryland	4,282	4,039	5,870
Mississippi	1,192	1,297	1,130**
North Carolina	2,737	6,309	2,500
South Carolina	1,237	2,618	1,920
Tennessee	2,527	3,752	2,390
Texas	9,119	11,164	9,380
Virginia	3,283	4,511	5,140
West Virginia	804	966	590
Region	45,174	60,364	48,880

*Includes Lawyers, Judges, and Law Teachers
**SREB interpolated on the basis of Southern states

Table B

National Statistics – Enrollment in Law Schools

Year	Total Enrollment A.B.A. Approved Schools	Total Enrollment Non-A.B.A. Approved Schools	Total Enrollment All Schools	First Year Enrollment in A.B.A. Approved Schools	LSAT Candidates	J.D. or LL.B. Awarded A.B.A. Approved Schools	New Admissions to the Bar A.B.A. Approved Schools
1962	44,805	3,858	48,663	18,346	26,279	9,260	10,784
1963	49,552	4,881	54,443	20,776	30,528	9,638	10,788
1964	54,265	5,548	59,813	22,753	37,598	10,491	12,023
1965	59,744	5,313	65,057	24,167	39,406	11,507	13,109
1966	62,556	5,565	68,121	24,077	44,905	13,115	14,644
1967	64,406	5,926	70,332	24,267	47,110	14,738	16,007
1968	62,779	5,783	68,562	23,652	49,756	16,077	17,764
1969	68,386	3,646	72,032	29,120	59,050	16,7[illegible]3	19,123
1970	82,041	3,987	86,028	34,713	74,092	17,183	7,922
1971	93,118	2,825	95,943	36,171	107,479	17,006	20,485
1972	101,664	3,581	105,245	35,131	119,694	22,342	25,086
1973	106,102	8,698	114,800	37,018	121,262	27,756	30,879

Source: M.H. Ruud, That Burgeoning Law School Enrollment Slows, 59 A.B.A.J. 150; Section of Legal Education and Admissions to the Bar, American Bar Association, *Review of Legal Education* (1973). All enrollment statistics include part-time students. The reader is again reminded of the "softness" of the data. All schools do not respond to A.B.A. questionnaires; different schools respond in different years.

Table C

First Year Students Enrolled in A.B.A.-Approved Law Schools 1961-1973, by States

	Fall 1961	Fall 1970	Fall 1971	Fall 1972	Fall 1973
Alabama	128	352	554	406	403
Arkansas	59	314[a]	295	274	252
Florida	426	1292[b]	1,250	1129	1142
Georgia	468	541	589	584	573
Kentucky	148	460	458	595[e]	637
Louisiana	293	754	969	886	930
Maryland	257	740[f]	683	694	674
Mississippi	94	203	376	236	212
North Carolina	301	616	681	650	673
South Carolina	97	349	348	372	350
Tennessee	326	674[c]	844	643	653
Texas	1019	2324[d]	2,426	2045	2300
Virginia	429	652	616	652	744
West Virginia	67	103	105	97	97
SREB Region	4112	9374	10,194	9263	9640

[a]Includes the University of Arkansas at Little Rock, not included previously.

[b]Includes Florida State University, not included previously.

[c]Includes Memphis State University, not included previously.

[d]Includes the South Texas College of Law and Texas Technical University, not included previously.

[e]Includes Northern Kentucky State College, Salmon P. Chase College Of Law, not included previously.

[f]Includes the University of Baltimore, not included previously.

Source: Section of Legal Education and Admissions to the Bar, A.B.A. *Review of Legal Education, 1960, 1965, 1970, 1971, 1972, & 1973.*

Table D

Total Students Enrolled in A.B.A.-Approved Law Schools 1961-1973, by States

	Fall 1961	Fall 1970	Fall 1971	Fall 1972	Fall 1973
Alabama	346	771	1,066	1,115	1,191
Arkansas	126	569	631	657	639
Florida	997	2,544	2,992	3,056	2,998
Georgia	1138	1,297	1,480	1,452	1,559
Kentucky	319	990	1,116	1,632	1,734
Louisiana	774	1,748	2,093	2,216	2,367
Maryland	671	1,508	1,788	1,985	1,949
Mississippi	214	399	654	687	667
North Carolina	694	1,378	1,703	1,842	1,846
South Carolina	227	644	742	844	879
Tennessee	716	1,464	1,603	1,770	1,798
Texas	2415	4,597	5,419	5,591	5,798
Virginia	1017	1,646	1,774	1,885	1,996
West Virginia	160	247	276	285	283
SREB Region	9794	19,802	23,337	25,017	25,704

Source: Section of Legal Education and Admissions to the Bar, A.B.A., *Review of Legal Education, 1960, 1965, 1970, 1971, 1972 & 1973.*

Table E

J.D. & LL.B. Degrees Awarded by A.B.A.-Approved Law Schools 1961-1973, by States

	Fall 1961	Fall 1970	Fall 1971	Fall 1972	Fall 1973
Alabama	86	161	188	222	248
Arkansas	33	102	114	128	175
Florida	223	496	508	759	968
Georgia	263	291	264	316	418
Kentucky	74	168	234	369	399
Louisiana	193	366	357	443	568
Maryland	129	281	199	282	515
Mississippi	73	117	91	124	175
North Carolina	184	240	312	452	564
South Carolina	47	119	162	136	247
Tennessee	148	296	322	369	480
Texas	487	973	1026	1347	1743
Virginia	229	402	457	501	638
West Virginia	42	54	72	77	86
SREB Region	2211	4066	4266	5525	7224

Source: Section of Legal Education and Admissions to the Bar, A.B.A., *Review of Legal Education, 1960, 1965, 1970, 1971, 1972, & 1973.*